

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KIMBERLY COOPER,

Plaintiff,

V.

KOHL'S DEPARTMENT STORES,
INC.,

Defendant.

Case No.:

COMPLAINT AND DEMAND FOR JURY TRIAL

(Unlawful Debt Collection Practices)

COMPLAINT

KIMBERLY COOPER (“Plaintiff”), by and through her attorneys, KURZ
LAW GROUP, LLC, alleges the following against KOHLS DEPARTMENT
STORES, INC., (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* ("TCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 28 U.S.C. § 1331, which grants this court original jurisdiction of all civil actions arising under the laws of the

1 United States. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181
2 L. Ed. 2d 881 (2012).

3 3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

4 **PARTIES**

5 4. Plaintiff is a natural person residing in Covington, Georgia 30014.

6 5. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

7 6. Defendant is a corporation with its headquarters located at
8
9 N56W17000 Ridgewood Drive, Menomonee Falls, Wisconsin 53051.

10 7. Defendant is a “person” as that term is defined by 47 U.S.C. §
11
12 153(39).

13 8. Defendant acted through its agents, employees, officers, members,
14 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
15 representatives, and insurers.

16 **FACTUAL ALLEGATIONS**

17 9. Plaintiff has a cellular telephone number.

18 10. Plaintiff has only used this phone as a cellular telephone.

19 11. Defendant called Plaintiff on her cellular telephone on a repetitive
20
21 and continuous basis.
22
23
24
25

1 12. When contacting Plaintiff on her cellular telephone, Defendant used
2 an automatic telephone dialing system and automated and/or pre-recorded
3 messages.

4 13. Plaintiff knew that Defendant used an automatic telephone dialing
5 system and automated and/or pre-recorded messages as there was often an
6 automated message with no caller on the line before connecting to one of
7 Defendant's representatives.
8

9 14. Defendant's telephone calls were not made for "emergency
10 purposes."
11

12 15. Desiring to stop these repeated, unwanted calls, Plaintiff spoke to
13 Defendant soon after the calls began and revoked any previous consent that
14 Defendant had to contact her.
15

16 16. Once Defendant was told the calls were unwanted and to stop, there
17 was no lawful purpose to making further calls, nor was there any good faith
18 reason to place calls.
19

20 17. Despite Plaintiff's request for Defendant to stop calling her, she still
21 received multiple calls each day from Defendant.

22 18. These additional calls were upsetting, agitating and unnerving to
23 Plaintiff.
24

25 19. Upon information and belief, Defendant conducts business in a

1 manner which violates the Telephone Consumer Protection Act.

2 **COUNT I**
3 **DEFENDANT VIOLATED THE TCPA**

4 20. Plaintiff incorporates the forgoing paragraphs as though the same
5 were set forth at length herein.

6 21. Defendant initiated multiple automated telephone calls to Plaintiff's
7 cellular telephone using a prerecorded voice.

8 22. Defendant initiated these automated calls to Plaintiff using an
9 automatic telephone dialing system.

10 23. Defendant's calls to Plaintiff were not made for "emergency
11 purposes."

12 24. Defendant's calls to Plaintiff were made after Plaintiff had explicitly
13 revoked any consent that was previously given.

14 25. Defendant's acts as described above were done with malicious,
15 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
16 under the law and with the purpose of harassing Plaintiff.

17 26. The acts and/or omissions of Defendant were done unfairly,
18 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
19 lawful right, legal defense, legal justification or legal excuse.

1 27. As a result of the above violations of the TCPA, Plaintiff has suffered
2 the losses and damages as set forth above entitling Plaintiff to an award of
3 statutory, actual and treble damages.
4

5
6 WHEREFORE, Plaintiff, KIMBERLY COOPER, respectfully prays for a
7 judgment as follows:

- 8 a. All actual damages suffered pursuant to 47 U.S.C.
9 §227(b)(3)(A);
10
11 b. Statutory damages of \$500.00 per violative telephone call
12 pursuant to 47 U.S.C. §227(b)(3)(B);
13
14 c. Treble damages of \$1,500 per violative telephone call pursuant
15 to 47 U.S.C. §227(b)(3);
16
17 d. Injunctive relief pursuant to 47 U.S.C. §227(b)(3); and
18
19 e. Any other relief deemed appropriate by this Honorable Court.

20 **DEMAND FOR JURY TRIAL**

21 PLEASE TAKE NOTICE that Plaintiff, KIMBERLY COOPER, demands
22 a jury trial in this case.
23
24
25

1 Dated: November 1, 2019

Respectfully submitted,

2
3 By: /s/ Dennis R. Kurz

4 Dennis R. Kurz, Esq.

5 Georgia Bar No.: 430489

6 Kurz Law Group, LLC

7 1640 Power Fry Road, Bldg. 17, Ste. 200

8 Marietta, GA 30067

9 Phone: (678) 264-8003

10 dennis@kurzlawgroup.com

11 **Attorney for Plaintiff**

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1

The undersigned hereby certifies that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Time New Roman and a point size of 14.

Dated: November 1, 2019

Respectfully submitted,

By: /s/ Dennis R. Kurz
Dennis R. Kurz, Esq.
Georgia Bar No.: 430489
Kurz Law Group, LLC
1640 Power Fry Road, Bldg. 17, Ste. 200
Marietta, GA 30067
Phone: (678) 264-8003
dennis@kurzlawgroup.com
Attorney for Plaintiff